

EDUCATION DEPARTMENT[281]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to amend Chapter 58, "School Breakfast and Lunch Program," Iowa Administrative Code.

2008 Iowa Acts, Senate File 2425, division XI, created the "Healthy Kids Act." Specifically, these proposed rules implement sections 140 and 141 of the legislation and their mandate of nutritional content standards for foods and beverages sold or provided on school grounds during the school day.

The first four items are amendments necessary to accommodate a new division of rules within Chapter 58. Item 5 creates the rules that establish the nutritional content standards for affected foods and beverages, and establishes the scope of these rules.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendments on or before 4:30 p.m. on February 3, 2009. Comments on the proposed amendments should be directed to Julia Thorius, Chief, Bureau of Nutrition, Health, and Transportation Services, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-4757; E-mail julia.thorius@iowa.gov; or fax (515)281-6548.

A public hearing will be held on February 3, 2009, from 1 to 2:30 p.m., originating in the ICN Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should advise the Department of Education of specific needs by calling (515)281-5295.

The remote ICN sites are as follows:

Keystone Area Education Agency 1
1400 2nd Street
Elkader

Northwest Area Education Agency
Room 103
1382 4th Avenue NE
Sioux Center

Heartland Area Education Agency 11
6500 Corporate Drive
Johnston

Loess Hills Area Education Agency 13
24997 Hwy 92
Council Bluffs

North Iowa Area Community College
Room 106, Activity Center
500 College Drive
Mason City

Green Valley Area Education Agency 14
Turner Room
1405 N Lincoln
Creston

Northwest Area Education Agency
Room 206
1520 Morningside Avenue
Sioux City

Great Prairie Area Education Agency
2814 N Court Street
Ottumwa

Great Prairie Area Education Agency
3601 West Avenue
Burlington

Area Education Agency 267
Room 2102, Wolfe Education Ctr.
3405 S Center Street
Marshalltown

Keystone Area Education Agency 1
Room 2
2310 Chaney Rd.
Dubuque

Cedar Falls Public Library
524 Parkade
Cedar Falls

River Bend Area Education Agency 9
Louisa Room
729 21st Street
Bettendorf

Fort Dodge Public Library
424 Central Avenue
Fort Dodge

Two ICN sites are tentative only; the reader is advised to check with these locations:

Area Education Agency 8
500 NE 6th Street
Pocahontas
(712)335-3588

Kirkwood Community College
Room 203B, Linn Hall
6301 Kirkwood Blvd. SW
Cedar Rapids
(319)398-5452

These amendments are intended to implement 2008 Iowa Acts, Senate File 2425, sections 140 and 141.

The following amendments are proposed.

ITEM 1. Amend **281—Chapter 58**, title, as follows:
**SCHOOL BREAKFAST AND LUNCH PROGRAM; NUTRITIONAL CONTENT STANDARDS
FOR OTHER FOODS AND BEVERAGES**

ITEM 2. Amend rule 281—58.1(283A) as follows:

281—58.1(283A,256) Authority of state department. Iowa Code chapter 283A authorizes the department of education to administer the school breakfast and lunch programs in the public and nonpublic schools of the state. 2008 Iowa Acts, Senate File 2425, sections 140 and 141, authorize the state board of education to establish nutritional content standards for foods and beverages sold or provided on school grounds during the school day.

ITEM 3. Amend **281—Chapter 58** by adding the following **new** division title to precede rule 281—58.2(283A):

DIVISION I
SCHOOL BREAKFAST AND LUNCH PROGRAM

ITEM 4. Amend rule **281—58.2(283A)**, introductory paragraph, as follows:

281—58.2(283A) Definitions. For the purposes of this ~~chapter~~ division, the following definitions apply:

ITEM 5. Amend **281—Chapter 58** by adopting **new** division II, title, as follows:

DIVISION II
NUTRITIONAL CONTENT STANDARDS, OTHER FOODS AND BEVERAGES

ITEM 6. Adopt the following **new** rules 281—58.9(256) to 281—58.11(256) in division II:

281—58.9(256) Definitions. For the purposes of this division, the following definitions apply:

“A la carte food sales” means food offered for sale by the school as part of the school’s food service program during the time the reimbursable school breakfast or lunch is served and that is not part of the reimbursable breakfast or lunch.

“*School*” means a school district or accredited nonpublic school.

“*School breakfast program or school lunch program*” means a program under which breakfasts and lunches or lunches are served by any school in the state of Iowa on a nonprofit basis to children in attendance, including any such program under which a school receives assistance out of funds appropriated by the Congress of the United States.

281—58.10(256) Scope. The rules in this division regulate the nutritional content of food and beverages sold or provided on the school grounds of any school during the school day, including food and beverages sold via vending machines, food and beverages sold in a “school store” or sold or provided otherwise on school grounds on a regular basis, and food and beverages sold as a la carte items. These rules do not regulate the nutritional content of food or beverages provided through a school breakfast program or school lunch program, sold for fundraising purposes, sold at concession stands, provided by parents, other volunteers, or students for class events, or provided by staff for the consumption by staff or students. The board of directors of a public school district or the authorities in charge of an accredited nonpublic school may, but are not required to, prescribe reasonable rules for their staff, volunteers, students, and parents, guardians, or custodians of students to adhere to regarding food and beverages provided on school grounds by staff, volunteers, students, and parents, guardians, or custodians of students.

281—58.11(256) Nutritional content standards.

Nutrient	A la Carte Entrees and Sides	Vending/School Store Items	Beverages
Calories	≤ NSLP entree items ¹ OR ≤400 calories NSLP sides ≤ 200 calories ¹	≤ 200 calories	Water Not to have nonnutritive sweeteners
Total fat	≤ 35% calories (excluding nuts, seeds, peanut butter and reduced fat cheese)	≤ 35% calories (excluding nuts, seeds, peanut butter and reduced fat cheese)	Milk — 8 oz² Low/nonfat regular (now) Low/nonfat flavored no nonnutritive sweeteners (now) In addition: ≤ 27 gm sugar/8 oz (2014) ≤ 24 gm sugar/8 oz (2017) ≤ 22 gm sugar/8 oz (2020)
Saturated fat	≤ 10% calories (excluding reduced fat cheese)	≤ 10% calories (excluding reduced fat cheese)	100% Fruit/Vegetable Juice No added sweeteners 4 oz elementary 10 oz MS/HS (now) 8 oz MS/HS (by 2014)
Trans fat	≤ 0.5 gm/serving	≤ 0.5 gm/serving	Sports Drinks, Flavored Waters 12 oz limit for elementary students No size limit for middle and high school students
Sugar	≤ 35% calories (excluding fruits and yogurt < 30 gm/8 oz)	≤ 35% calories (excluding fruits and yogurt < 30 gm/8 oz)	Sodas (Carbonated Beverages) None are to be made available during the school day via vending machines, school stores, or as a la carte items

Sodium	≤ 600 mg/serving entrees (present) ≤ 480 mg/serving entrees (2014) ≤ 400 mg/serving sides (present) ≤ 200 mg/serving sides (2014)	≤ 400 mg/serving (present) ≤ 200 mg/serving (2014)	Caffeinated Beverages None are to be made available during the school day via vending machines, school stores, or as a la carte items, with the exception of beverages that contain trace amounts of naturally occurring caffeine-related substances (e.g., chocolate milk)
Dietary fiber/whole grain	50% of grains offered provide 2 gm dietary fiber/serving	50% if grains offered are whole grain OR provide 2 gm fiber/serving	
	At least two fruits and/or non-fried vegetables offered with no more than one being a juice option	At least two fruits and/or non-fried vegetables offered with no more than one being a juice option	

¹NSLP (National School Lunch Program) menu items offered in the same portion size and frequency per week as they appear on the NSLP menu.

² Milk portion size - 8 oz elementary and middle school; - 8 oz portion must be available at high school and up to 16 oz may also be available.

ITEM 7. Amend **281—Chapter 58**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 283A and 2008 Iowa Acts, Senate File 2425, sections 140 and 141.